

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
)	
Decision of the)	CC Docket No. 02-6
Universal Service Administrative Company)	CC Docket No. 96-45
)	
By)	File No. _____
)	
Marietta City School District)	
Billed Entity #: 130075)	
471 Application #: 749368)	
Funding Request #: 2024511)	FILED/ACCEPTED

To: Office of the Secretary, FCC
Attention: Chief, Wireline Competition Bureau

MAY - 9 2011

Federal Communications Commission
Office of the Secretary

REQUEST FOR REVIEW

Pursuant to 47 C.F.R. §54.719(c), the Marietta City School District ("Marietta") respectfully requests review of the March 10, 2011 Administrator's Decision on Appeal (the "Decision," attached as Exhibit A), issued by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") in the captioned matter.

In its Decision, the SLD denied a January 18, 2010 appeal (the "Appeal") of a November 16, 2010 Funding Decision Commitment Letter ("FCDL"). The Appeal had sought to modify the FRN to agree with the amount shown in the contract to which the subject request related. A copy of the relevant portion of the contract, showing the correct undiscounted amount for eligible services, had been attached to the Appeal.

The Decision asserted that the funding increase request had been submitted too late. As will be shown herein, the applicant's oversight was a ministerial error of the type routinely forgiven by the Commission; and the applicant is entitled to E-Rate support in the full corrected amount supported by the applicable contract.

RELEVANT BACKGROUND

After following the proper pre-certification procedures, on January 22, 2007 Marietta entered into an "Internet Service Agreement MA-2007/08 (July 1, 2007 to June 30, 2012)" (the Contract," attached as Exhibit B) with the Southeastern Ohio Voluntary Education Cooperative ("SEOVEC"). The Contract specified the Internet Access Services to be provided (in Section III and Exhibit A thereof) and further provided that: "Charges for the Services provided under this Agreement will be billed to Customer on an annual basis" (in Section IV thereof).

Attached hereto as Exhibit C is a Declaration Under Penalty of Perjury of Matthew Reed, Marietta's Chief Financial Officer, in which he confirms the relevant facts for Funding Year 2010 (to the extent to which official notice cannot be taken). As he recounts, he assumed his duties during the period when FCC Form 471 ("Description of Services Ordered and Certification") was due to be filed for FY 2010. Due to his inexperience in E-rate matters, he used a consultant whom Marietta had engaged previously.

As can be confirmed through the USAC's SLD database, the subject Form 471 was timely submitted. As originally filed (Exhibit D), the Form showed a "total program year pre-discount amount" for FRN 2024511 (the FRN relating to the services to be provided by SEOVEC) of \$37,551,84. The Form was timely amended (Exhibit E) to revise that figure to \$43,371.11. Both versions of the form (original and amended) reflected the same "Total

Funding Commitment Request” in Block 25.b of \$44,448.18, so clearly the earlier figure for the SEOVEC services had been in error.

In the meantime, as required by the Contract, in early January 2010 SEOVEC had sent an Exhibit B to the Contract detailing the “Proposed Charges, Fiscal Year 2011, Agreement MA-2010/11” (corresponding to FY 2010 of the E-rate program) in the total amount of \$77,042.00. Due to the confusion over the change in financial staff at Marietta, this apparently was not communicated to Marietta’s consultant, who entered a lower figure on the Form 471, which the former treasurer approved prior to filing. The error was not noticed by Marietta’s personnel until receipt of the FCDL (attached as Exhibit F), which acknowledged the modification of the Form 471 and approved total funding in the amount of only \$44,448.18 (of which \$27,323.80 was for the services to be provided by SEOVEC).

On January 18, 2011, Marietta filed a timely appeal of the FCDL (attached as Exhibit G). Attached to the Appeal was a copy of the FY 2010 Exhibit B to the Contract, showing the undiscounted amount for eligible SEOVEC services of \$77,042. The Appeal noted that application of the 63% discount would yield a funding commitment for the SEOVEC services of \$48,536.46, rather than the \$27,323.80 approved in the FCDL.

On March 10, 2011, USAC issued its Decision denying Marietta’s appeal. The sole basis it recited was that the Appeal allegedly was filed too late to have requested a funding increase. Marietta respectfully submits herein that its actions were consistent with the FCC’s past indulgence of ministerial errors by applicants’ inexperienced staff and that grant of this appeal will not disserve the purposes of the E-rate program. On the contrary, grant of additional funding for eligible services will advance the goal of the program.

DISCUSSION

The Commission has repeatedly held that, in the absence of waste, fraud and abuse, applicants should be permitted to correct ministerial errors. The Commission has consistently acknowledged that many E-Rate beneficiaries, especially small districts, find the application process for public funds to be complicated, resulting in significant numbers of denials of applications for E-Rate support on the basis of ministerial, clerical or procedural errors. *See, e.g., Request for Review of the Universal Service Administrator by Bishop Perry Middle School*, 21 FCC Rcd 5316, ¶¶ 2-3 (2006). For years, the Commission has held that, in cases of such minor procedural violations, where there is no evidence of waste, fraud or abuse, “rigid compliance with USAC’s procedures does not further the purposes of section 254(h) [of the Communications Act] or serve the public interest..” *Id.*, ¶ 11. As the Commission noted, “the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts.” *Id.*, ¶ 14. Indeed, in *Request for Review of the Universal Service Administrator by Hillsboro Independent School District*, 23 FCC Rcd 15424 (2008) the Commission noted that a denial was “due to inadvertent, correctible errors on the part of Hillsboro’s new technology director, who was unfamiliar with the complexities of the E-rate program” and waived its rules to allow the school district “to receive the funding it would receive but for its technology director’s mistakes.” *Id.*, at ¶ 6.

Most recently in an *Order* in CC Docket 02-6, FCC 11-60, released April 14, 2011, the Commission recognized the very type of “clerical and ministerial” problem involved here, which included “the kinds of errors that a typist might make when entering data from one list to

another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error [footnote omitted]. Given the complexity and detail that is often involved in completing these forms and associated documentation, we recognize that such errors may not be discovered until significantly after a request for funding was filed.” *Id.*, ¶ 5.

As affirmed in Mr. Reed’s Declaration, the erroneous figure at issue here was provided by a former financial officer during a period of transition, and Mr. Reed, as the incoming CFO, was not in any position to know otherwise, nor to have discovered it until receipt of the FCDL. Similarly, Marietta’s consultant relied upon the information provided by the former officer in completing and filing the Form 471 on Marietta’s behalf.

The Commission has further consistently held that while it is committed to guarding against waste, fraud and abuse and ensuring the funds disbursed through the E-rate program are used for appropriate purposes, it is prepared to waive its procedural rules when “nothing in the record [of a case] demonstrates any evidence of waste, fraud or abuse.” *See, e.g., Requests for Waiver of Decisions of the Universal Service Administrator by Allendale County School District*, DA 11-723, released April 21, 2011. Here, the error that resulted in a request for funding in an amount less than that specified in the underlying SEOVEC Contract was completely removed from any hint of waste, fraud or abuse – indeed, quite the opposite, as the funding that had been requested was substantially lower than the correct amount to which Marietta was entitled. Indeed, as Mr. Reed notes in his Declaration, deprivation of the additional funding will cause a substantial hardship for Marietta, which will have to obtain the funds from other essential technology or educational programs.

Finally, we note that grant of the relief requested herein will not in any way impair the effectiveness of the E-rate program. The Commission recently noted that USAC has reserved sufficient funds to address outstanding appeals, *Id.*, n. 30, citing *Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter, 2010* (August 2, 2010). In that regard, we note that the appeals granted in *Allendale, supra* (for which funds were still available), involved approximately \$3.4 million, whereas rectification of the subject Marietta error will entail a mere \$21,212.66.

For the foregoing reasons, the Marietta City School District respectfully requests that the Commission reverse USAC's decision denying additional funding to cover the full discounted amount attributable to eligible services for FY 2010 under Marietta's Contract with SEOVEC, and order USAC to fund the entire amount requested in Marietta's Appeal.

Respectfully submitted,

MARIETTA CITY SCHOOL DISTRICT

By: _____


Mark J. Balchick
Peter Gutmann

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**CC: Universal Service Administrator
Universal Service Ombudsman**

May 9, 2011



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2010-2011

March 10, 2011

Matthew S. Reed
Marietta City School District
111 Academy Drive
Marietta, OH 45750

Re: Applicant Name: MARIETTA CITY SCHOOL DISTRICT
Billed Entity Number: 130075
Form 471 Application Number: 749368
Funding Request Number(s): 2024511
Your Correspondence Dated: January 18, 2011

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2010 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2024511
Decision on Appeal: **Denied**
Explanation:

- During the appeal review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. USAC agrees that PIA correctly determined that FRN:2024511 was approved in full during the PIA review. On appeal, you requested to increase funding. According to program rules, if the applicant was given an opportunity to request increase in funding on the Form 471 Receipt Acknowledgement Letter (RAL) and at any time up until the FCDL letter is issued and it failed to do so, any requests for funding increase on appeal will be denied. Based on the documentation in the record, USAC determined that you did not request an increase in funding during either Receipt Acknowledgement Letter (RAL) correction process or during the original/PIA review. Consequently, the appeal is denied.

- The change requested with your Receipt Acknowledgement letter was not implemented because your request for changes was received after the associated Form 471 was committed and as such could not be processed. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.
- The FCC's Bishop Perry Order directed USAC "to provide all E-rate applicants with an opportunity to correct ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications" without posting new FCC Forms 470 and 471. *See Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Mechanism, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316-5317, FCC 06-54 para. 23 (May 19, 2006) (Bishop Perry Order).* As a result, USAC sends an applicant a Receipt Acknowledgement Letter (RAL) when the FCC Form 471 has been successfully data entered and provides the applicant with an opportunity to make allowable corrections to its FCC Form 471. USAC has published a list of ministerial and clerical errors that can be corrected on pending applications without violating the program rules and has advised applicants to review this list before submitting corrections. *See SLD Section of USAC web site, Reference Area, "Bishop Perry Order, List of Ministerial and Clerical Errors" at www.usac.org/sl.*
- Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing. FCC rules require that funding requests must be submitted via an FCC Form 471. *See 47 C.F.R. sec. 54.504(c).* New funding requests cannot be submitted through the appeals process. Considerations for funding requests depend on the date the FCC Form 471 is received and the amount of funds available if it is received after the close of the filing window. *See 47 C.F.R. sec. 54.507(g).* Consequently, USAC denies your appeal insofar as it requests funding that was not included in the FCC Form 471.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Matthew S. Reed
Marietta City School District
111 Academy Drive
Marietta, OH 45750

Billed Entity Number: 130075
Form 471 Application Number: 749368
Form 486 Application Number:

Southeastern Ohio Voluntary Education Cooperative Internet Access Service Agreement MA-2007/08

July 1, 2007 to June 30, 2012

This agreement (Agreement) is made between the Marietta City School District (District) and the Council of Governments -- Southeastern Ohio Voluntary Education Cooperative (SEOVEC), as verified by the signatures attached at the end of this Agreement.

This agreement in no way modifies, supplements, or amends the contents of the Computer Systems Program Agreement, which has been approved by the District Board of Education, the Authorized Representatives, the Governing Board of SEOVEC and the Ohio Department of Education. The programs and fees outlined herein are consistent with those authorized within the Computer Systems Program Agreement and approved by the Governing Board and Authorized Representatives of SEOVEC.

WHEREAS, the SEOVEC is a regional educational service center organized under the rules and guidelines established by the State of Ohio to provide communications and other technology services, and;

WHEREAS, the District is a School District, School, Educational Service Center or other educational entity certified for instruction by the State of Ohio, and;

WHEREAS, the SEOVEC through its technology center desires to provide to District and District desires to secure from SEOVEC the services detailed in this Agreement;

NOW THEREFORE, in consideration of the mutual agreements hereinafter set forth and for other good and valuable consideration, the parties hereto, intending to be legally bound, agrees as follows:

I. DEFINITIONS

As used in this Agreement the following terms shall be defined as follows:

"District" and *"Customer"* shall mean a public or private school, school district or other educational entity that has agreed to the terms and conditions of this Agreement.

"SEOVEC" and *"Provider"* shall mean the Southeastern Ohio Voluntary Education Cooperative Internet service provider program.

"Services" shall mean all of the duties and ministrations listed in Article III Performance of this Agreement.

"User" shall mean a District or person authorized by a District to make use of the data services or equipment secured by Customer from Provider by this Agreement.

II. TERM AND RENEWAL

This Agreement shall be for the period beginning July 1, 2007 and ending June 30, 2012. During the term of the Agreement the fees associated with the service will be established by the SEOVEC annually in accordance with its bylaws. The fee for any year within the Agreement will be no more than a 3.0% increase over the previous year within the Agreement. Fees will be established by April 1 of each year and the District will receive written notice of the fee within 30 days of establishment.

The District shall have the right to terminate this agreement at any time during this term without penalty, unless otherwise noted within this agreement, with 60 days written notice to the SEOVEC should termination be due to: changes in funding sources for the District; changes with regard to the Universal Service Program (Erate) which impact the District; changes in the fee for the service as announced by the SEOVEC; or, other factors which were reasonably unforeseen by the District or the SEOVEC which affect the District's ability to utilize or reimburse the SEOVEC for the service. The District shall be liable for charges incurred for use of the service up to the date of termination.

Termination of this agreement in whole or in part for any reason other than as listed in the preceding paragraph will be subject to a termination fee equal to 10% of the remaining cost of the service for the then-current fiscal year from the time of termination. This fee is in addition to any charges incurred for use of the service up to the date of termination. Additional termination charges may be associated with optional services elected by the District as noted in the attached Exhibits.

III. PERFORMANCE

Provider shall furnish Customer Internet access services as further described in attached Exhibit A.

IV. CHARGES AND PAYMENT

Customer agrees to be solely responsible to Provider for all charges billed by Provider for Services provided to Customer under this Agreement. Charges for the Services provided under this Agreement will be billed to Customer on an annual basis. Invoices will be sent to Customer no earlier than September 1 of each service year.

Payment of all invoices sent shall be due within 30 days of the receipt of invoice by Customer unless otherwise noted in writing. Late payments shall be subject to a service charge of one and one half percent (1 1/2%) of any and all unpaid balance per month unless expressly waived by the Provider in writing. Provider may at its sole discretion terminate or suspend the Services to any Customer whose payments are in arrears by more than sixty (60) days. Such suspension shall not be deemed a waiver of other legal or equitable rights the Provider may have for full payment; suspension shall not effect a termination of the Agreement. If services to the Customer are suspended, there may be a reconnection fee to cover the administrative cost of reconnection. The reconnection charge shall be in addition to amounts due for unpaid balances and/or the above described service charges.

V. WARRANTIES/LIMITATIONS ON LIABILITY/INDEMNIFICATION

A. Providers shall be liable to Customer for failure to provide Services, but only if such failure(s) is due to the negligence of Provider and not excused by either of the following: 1) Provider shall not be liable for any damages incurred as a result of the errors, omissions or negligence of Customer, its personnel, employees, agents or users; 2) Provider shall not be liable for failure to perform if such failure is caused by acts of God, winds, fires, landslide, floods, droughts, famines, acts of public enemies, insurrection, military action, sabotage, riots, or civil disturbances, failure of a utility or utility type service which is essential to the Provider's Services or other event(s) not reasonably within the control of the Provider.

B. Customer may utilize the Services provided for educational and educational-administrative related activities only. Where the Services provided include access to the Internet networks, Provider does not warrant that the functions of the Internet network will meet any specific Customer or user requirements, or that Services provided will be error free or uninterrupted; nor shall Provider be liable for any actual damages or any indirect, incidental, special or consequential damages (including as a result of loss of data or misinformation) sustained in connection with the use, operation, or inability to use the Provider Services by Customer or its users. Further, Customer understands and agrees that Provider will exercise no control over the information that Customer and users may transmit and access as a result of the provision of Services by Provider and that, therefore, Customer will make no claim against Provider for the Internet service uses, including transmission, downloading or uploading of information that is offensive, a violation

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Southeastern Ohio Voluntary Education Cooperative Internet Access Service Agreement MA-2007/08

July 1, 2007 to June 30, 2012

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WHEREAS, the District is a School District, School, Educational Service Center or other educational entity certified for instruction by the State of Ohio, and;

WHEREAS, the SEOVEC through its technology center desires to provide to District and District desires to secure from SEOVEC the services detailed in this Agreement;

NOW THEREFORE, in consideration of the mutual agreements hereinafter set forth and for other good and valuable consideration, the parties hereto, intending to be legally bound, agrees as follows:

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"Services" shall mean all of the duties and ministrations listed in Article III Performance of this Agreement.

"User" shall mean a District or person authorized by a District to make use of the data services or equipment secured by Customer from Provider by this Agreement.

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of the law, or the actionable violation of others' rights. Unless special arrangements are made and appended to this Agreement, Provider will not routinely monitor Customer's activities or pupil access to any of the interconnected systems. Any filters or screening devices are limited to those in existence at the date of this Agreement or for which Provider subsequently installs. Provider is not under any duty to install or modify filters or screening programs. Provider does not warrant the accuracy or appropriateness of any information contained in the interconnected systems. Some material contained in the interconnected systems may be inappropriate for school aged pupils.

C. Customer, directly or through its agents, permitting pupil access to the interconnected computer system(s) of the Internet through Provider assumes full responsibility for any and all access to and usage of information contained on the interconnected computer system(s) of the Internet.

D. Customer agrees to indemnify and hold Provider, its governing board members, officers, members, employees and/or agents harmless from any claims, suits, liability, loss, expenses and/or damages, including alleged copyright and other intellectual property claims, sustained by any person by reason of any act of Customer or its users in their activities involving use of Provider's network.

E. Provider reserves the right to discontinue Customer's access to the Provider's Services and/or seek other legal or equitable relief for use of the Services that Provider deems to be in violation of the rules and regulations of the State Board of Education; or in violation of this Agreement; or violate state and federal law; or are uncivil. For purposes of this Agreement, uncivil conduct includes but is not limited to: 1) transmitting offensive or harassing statements; 2) developing and/or transmitting offensive or unlawful graphics; 3) transmitting sexual or ethnic slurs explicitly or as part of a joke; 4) soliciting or encouraging others to engage in sexual, offensive or unlawful acts; or 5) permitting or encouraging unauthorized access to the Providers network and public networks including access to the Internet.

F. Customer understands and agrees that Provider shall have no responsibility for Customer's or its users' accessing or transmitting offensive or unlawful information, interference or unlawful access to others' information or networks, or other offensive or unlawful activity in which Provider's Service is used.

G. Although Provider does not have a duty to monitor Customer or its Users' transmissions, it shall not be prohibited from monitoring.

VI. PROPERTY

A. All written procedures and similar items utilized or developed in connection with this Agreement, residing with Provider, are not to be considered the property of Customer.

VII. CONFIDENTIALITY OF INFORMATION

A. Provider shall exercise ordinary care in preserving and protecting the confidentiality of information and materials furnished by Customer.

B. Except as required by law, Provider agrees not to disclose any materials, information, or other data relating to Customer's operations, to other individuals, corporate entities, districts, or governmental agencies, without prior written consent from Customer.

C. Except as required by law, Customer agrees not to disclose any information or documentation obtained from Provider.

Agreement is a free and voluntary act, done in belief that the Agreement is fair and reasonable. Finally, the parties acknowledge that they have had the right and opportunity to consult with and obtain the advice of independent legal counsel of the parties' own choosing in the negotiation and execution of this Agreement.

By signing below, Signatory of Customer ("Signatory") certifies authorization to sign on behalf of Customer and certifies having read, understood and agreed to the terms of this Agreement, including the provisions of the attached exhibits which are hereby incorporated herein by reference. Signatory certifies that all information provided by Customer in connection with this Agreement is true and accurate.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date first set forth above.

CUSTOMER: Marietta City School District

David B. Combs
Signature of Officer or Manager for the Customer

1/22/2007
Date

DAVID B. COMBS
Printed name of Officer or Manager for Customer

PROVIDER: Council of Governments, Southeastern Ohio Voluntary Education Cooperative

Robert L. Lindsey
Signature of Officer or Manager for the Provider

1/22/2007
Date

Robert L. Lindsey, CEO/Director
Printed name of Officer or Manager for the Provider

EXHIBIT A

Internet Access Services Agreement MA-2007/08

This exhibit is hereby made part of the Internet Access Service Agreement (Agreement) entered between the Council of Governments, Southeastern Ohio Voluntary Education Cooperative and Customer, as these terms are defined in the Agreement. The following additional terms and conditions apply to the Agreement.

Charges will be incurred for only those Services for which a rate is shown and/or a charge is itemized. Services will be rendered for the period of the Agreement, unless otherwise stated below.

1. Services Included In Base Rate

- Data connectivity to the Internet at the bandwidth specified to each location itemized in the chart contained in this Proposal
- Firewall service for all district buildings within the SEOVEC network
- Allocation of IP addresses for all workstations and network devices
- E-mail service for each student and staff member assigned to the location
- Installation, configuration and maintenance of equipment placed on-site to provide Internet access (this equipment remains property of the ISP)
- Telephone and on-site technical assistance in troubleshooting installation and performance problems between the location network and the Internet
- Voice over IP capability
- Non-blocking bandwidth – the location has access to all the bandwidth quoted in the Proposal

2. Services Available At Additional Charge

- Asynchronous Transfer Mode (ATM) circuit capability including Switched Virtual Circuit (SVC) support
- Content filtering on a location/sub-net level
- Protocol monitoring and priority allocation across the Internet connection
- Video over IP capability including IP video bridging and broadcast capability with user-level scheduling access
- On-site LAN diagnostic services

3. Additional Charges

Customer agrees to pay actual cost of material(s) and an hourly charge for labor for costs incurred beyond those outlined in Exhibit B as a result of providing Services to Customer. Such charges are billable on a monthly basis.

EXHIBIT B

Proposed Charges, Fiscal Year 2007 Agreement MA-2007/08

Charges for services as contained in this Exhibit apply to Fiscal Year 2008 (July 1, 2007 through June 30, 2008). Charges for succeeding years within the term of the Agreement are determined on an annual basis and are limited by the terms and conditions within the Agreement.

For each location served, regardless of the number of physical structures or logical "buildings" as defined by the Ohio Department of Education, COG-SEOVEC will charge an annual Service Fee. The Service Fee is determined by the bandwidth provided to the location: locations provided up to 2 megabits of bandwidth are classified as Tier 1 service; locations provided over 2 megabits of bandwidth are classified as Tier 2 service. In addition to the Service Fee, COG-SEOVEC will charge a separate Transport Fee for the costs associated with connecting the service location to the COG-SEOVEC Center.

Tier 1 service is provided for an annual fee of \$4,500.00; Tier 2 service is provided for an annual fee of \$5,700.00.

The Transport Fee is based on the actual costs associated with providing the connection between the service location and the COG-SEOVEC Center. This connection may be provided by a telecommunication provider, cable company, private vendor or through other means; no specific technology or platform is implied in this Proposal.

A summary of the proposed costs is outlined below. The Transport Fee quoted is for the bandwidth as outlined in the Form 470 posting (or associated RFP); options for additional bandwidth are noted following the summary.

Location	Service Fee	Bandwidth	Transport Fee	Total Location Cost
HS/Administration Campus	5,700.00	3.0 mb	9,600.00	15,300.00
Middle School	5,700.00	3.0 mb *	9,600.00	15,300.00
Putnum Elementary	4,500.00	1.5 mb	4,800.00	9,300.00
Harmer Elementary	1,000.00	40.0 mb	3,500.00	4,500.00 **
Phillips Elementary	1,000.00	40.0 mb	3,500.00	4,500.00 **
Washington Elementary	1,000.00	40.0 mb	3,500.00	4,500.00 **
Total Annual Cost:	18,900.00		34,500.00	53,400.00

The above costs assume a full year of service and include all charges for installation and maintenance of service. Modifications to proposed locations and/or service levels may incur additional charges and will be pro-rated over the service period. * The 3.0 mb at the MS is shared bandwidth with Harmer, Phillips and Washington elementaries.

** These are LAN services and are not Erate-eligible

(Continued on next page)

EXHIBIT C

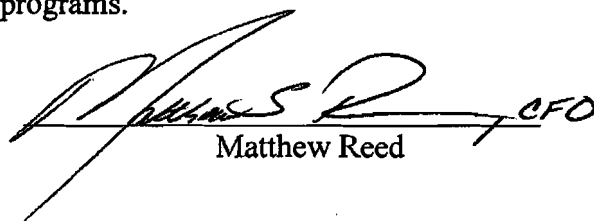
10 Meg Transport Option Agreement MA-2007/08

The Customer is located in a service area where high-speed connectivity service is not currently available. However, the SEOVEC continues to negotiate with service providers in the Customer's area and expects to be able to offer high-speed service in the future.

DECLARATION UNDER PENALTY OF PERJURY

Matthew Reed states under penalty of perjury that the following is true and correct to the best of his personal knowledge and belief:

1. I am the Chief Financial Officer of Marietta City Schools. I have held this position since January 26, 2010. Among my many duties is responsibility for seeking "E-rate" reimbursement for internet access service.
2. In order to ensure a smooth transition, the former Chief Financial Officer continued to work with me through the end of February 2010. I had no training or experience with respect to E-rate matters, and was not familiar with the appropriate procedures and requirements. Therefore, I deferred to him to complete the process for the 2010 funding year which he had initiated and was already well underway. He already had a consultant in place, and because of my inexperience and the need for continuity in the 2010 E-rate process, I saw no reason to alter that arrangement.
3. I understand that he had provided financial information from our Internet Service Provider (the Southeastern Ohio Voluntary Education Cooperative (SEOVEC)) to our consultant, who then confirmed that information and then filed the FCC Form 471 on our behalf. I had no reason to believe that the figures provided on the Form 471 were inaccurate.
4. I first learned of a funding problem when I received a phone call from another treasurer of an Ohio school system whose superintendent was on the SEOVEC board. This was in late October 2010. Formal notice of the problem came with receipt of a Funding Decision Commitment Letter in November, which reflected a prediscouted eligible service amount for the SEOVEC services that was far lower than the rate we were actually committed to paying SEOVEC for FY 2010.
5. Upon investigation, it was determined that the Form 471 itself had shown the wrong amount of \$43,371.11, rather than the amount reflected in our contract with SEOVEC of \$77,042. It appears that the source of the error was the figures provided to our consultant by our former treasurer. The mistake clearly was inadvertent, since we needed reimbursement reflecting the full amount we were committed to spend on eligible services in FY 2010.
6. SEOVEC bills us annually for sums due for the services they provide in a given fiscal year. We in fact have paid them the full \$77,042 required by our contract.
7. If we are unable to obtain additional reimbursement through the E-rate program, it will have serious consequences for our school system. Since our budget is already set for FY 2010 (and has been for several years), the shortfall will have to be taken out of funds for other essential technology and educational programs.



Matthew Reed CFO

FCC Form 471

Do not write in this area.

Approval by OMB
3060-0806**Schools and Libraries Universal Service
Description of Services Ordered and Certification Form 471**

Estimated Average Burden Hours per Response: 4 hours

This form asks schools and libraries to list the eligible telecommunications-related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.

Please read instructions before beginning this application. (You can also file online at www.sl.universalservice.org.)

The instructions include information on the deadlines for filing this application.

Applicant's Form Identifier

(Create your own code to identify THIS form 471) Marietta13

Form 471 Application#

(To be assigned by administrator)

749368

Block 1: Billed Entity Information (The "Billed Entity" is the entity paying the bills for the service listed on this form.)

1 a Name of Billed Entity MARIETTA CITY SCHOOL DISTRICT

2 a Funding Year: July 1, 2010 Through June 30: 2011 Billed Entity Number: 130075

4 a Street Address, P.O. Box, or Routing Number 111 ACADEMY DRIVE

City MARIETTA

State OH

Zip Code 45750

5 a Type of Application

☐ Individual School (individual public or non-public school)

☒ School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools)

☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)

☐ Consortium ☐ Check here if any members of this consortium are ineligible or non-governmental entities)

6 Contact Person's Name Cara Jones

First, if the Contact Person's Street Address is the same as in Item 4, check this box. ☐ If not, please complete the entries for the Street Address below.

b Street Address, P.O. Box, or Routing Number 5701 East Circle Drive #380

City Cicero

State NY

Zip Code 13039



0 4 7 0 0 1 0 1 0

Page 1 of 7

FCC Form 471 - November 2004

Entit, Number	130075	Applicant's Form Identifier	Marietta13
Contact Person	Cara Jones	Phone Number	727-289-5137

This information will facilitate the processing of your applications. Please complete all rows that apply to services for which you are requesting discounts. Complete this information on the FIRST Form 471 you file, to encompass this and all other Forms 471 you will file for this funding year. You need not complete this information on subsequent Forms 471. Provide your best estimates for the services ordered across ALL of your Forms 471.

Schools/school districts complete Item 7. Libraries complete Item 8. Consortia complete Item 7 and/or Item 8.

Block 2: Impact of Services Ordered on Schools

IF THIS APPLICATION INCLUDES SCHOOLS...

BEFORE ORDER

AFTER ORDER

7a Number of students to be served

2982

e Direct connections to the Internet: Number of drops

195

195

Block 3: Impact of Services Ordered on Libraries

NOT APPLICABLE AS THIS APPLICATION IS FOR DISTRICT

Worksheet A No: 1225864

Student Count: 2982

Weighted Product (Sum. Column 8): 1877

Shared Discount: 63%

1. School Name: HARMAR ELEMENTARY SCHOOL

2. Entity Number: 50790 NCES: 39 10019 01244

3. Rural/Urban: Urban

4. Student Count: 306

5. NSLP Students: 155

6. NSLP Students/Students: 50.653%

7. Discount: 80%

8. Weighted Product: 244.8

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: MARIETTA CITY CENTRAL OFFICE

2. Entity Number: 16023105 NCES:

3. Rural/Urban: Urban

4. Student Count: 0

5. NSLP Students: 0

6. NSLP Students/Students:

7. Discount: 63%

8. Weighted Product: 0

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: MARIETTA CITY CENTRAL RECEIVING

2. Entity Number: 16023104 NCES:

3. Rural/Urban: Urban

4. Student Count: 0

5. NSLP Students: 0

6. NSLP Students/Students:

7. Discount: 63%

8. Weighted Product: 0

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: MARIETTA CITY MAINTENANCE BLDG

2. Entity Number: 16023103 NCES:

3. Rural/Urban: Urban

4. Student Count: 0

5. NSLP Students: 0

6. NSLP Students/Students:

7. Discount: 63%

8. Weighted Product: 0

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: MARIETTA HIGH SCHOOL

2. Entity Number: 50784 NCES: 39 10019 01246

3. Rural/Urban: Urban

4. Student Count: 989

5. NSLP Students: 266

6. NSLP Students/Students: 26.895%

7. Discount: 50%

8. Weighted Product: 494.5

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: MARIETTA MIDDLE SCHOOL

2. Entity Number: 50788 NCES: 39 10019 01245

3. Rural/Urban: Urban

4. Student Count: 674

5. NSLP Students: 265

6. NSLP Students/Students: 39.317%

7. Discount: 60%

8. Weighted Product: 404.4

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: PHILLIPS ELEMENTARY SCHOOL

2. Entity Number: 50791 NCES: 39 10019 01249

3. Rural/Urban: Urban
 4. Student Count: 398
 7. Discount: 80%
 9. Pre-K/Adult Ed/Juv: N

5. NSLP Students: 208
 8. Weighted Product: 318.4
 10. Alt Disc Mech: N

6. NSLP Students/Students: 52.261%

1. School Name: PUTNAM ELEMENTARY SCHOOL
 2. Entity Number: 50782 NCES: 39 10019 01250
 3. Rural/Urban: Urban
 4. Student Count: 257
 7. Discount: 50%
 9. Pre-K/Adult Ed/Juv: N

5. NSLP Students: 78
 8. Weighted Product: 128.5
 10. Alt Disc Mech: N

6. NSLP Students/Students: 30.350%

1. School Name: WASHINGTON ELEMENTARY SCHOOL
 2. Entity Number: 50787 NCES: 39 10019 01252
 3. Rural/Urban: Urban
 4. Student Count: 358
 7. Discount: 80%
 9. Pre-K/Adult Ed/Juv: N

5. NSLP Students: 207
 8. Weighted Product: 286.4
 10. Alt Disc Mech: N

6. NSLP Students/Students: 57.821%

Block 5: Discount Funding Request(s)

FRN: 2024495 FCDL Date: 11/16/2010	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 453600000786222
13. SPIN: 143001688	14. Service Provider Name: The Ohio Bell Telephone Company
15a. Non-Contracted tariffed/Month to Month Service: Y	15b. Contract Number: T
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 7403745005381	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 12/16/2009	18. Contract Award Date:
19a. Service Start Date: 07/01/2010	19b. Service End Date: 06/30/2011
20. Contract Expiration Date:	
21. Attachment #: 1	22. Block 4 Worksheet No.: 1225864
23a. Monthly Charges: \$1,955.52	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$1,955.52	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$23,466.24	
23f. Annual non-recurring (one-time) charges: 0 23g. Ineligible non-recurring amt.: 0	
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$23,466.24	
23j. % discount (from Block 4): 63	
23k. Funding Commitment Request (23i x 23j): \$14,783.73	

FRN: 2024501 FCDL Date: 11/16/2010	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 453600000786222
13. SPIN: 143005329	14. Service Provider Name: PNG Telecommunications, Inc.
15a. Non-Contracted tariffed/Month to Month Service: Y	15b. Contract Number: T
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: SMN2000780	16b. Multiple Billing Account Numbers?:

17. Allowable Contract Date: 12/16/2009	18. Contract Award Date:
19a. Service Start Date: 07/01/2010	19b. Service End Date: 06/30/2011
20. Contract Expiration Date:	
21. Attachment #: 2	22. Block 4 Worksheet No.: 1225864
23a. Monthly Charges: \$309.61	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$309.61	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$3,715.32	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$3,715.32	
23j. % discount (from Block 4): 63	
23k. Funding Commitment Request (23i x 23j): \$2,340.65	

FRN: 2024511	FCDL Date:
10. Original FRN:	
11. Category of Service: Internet Access	12. 470 Application Number: 639020000632393
13. SPIN: 143022774	14. Service Provider Name: Council of Governments, SE Ohio Voluntary Education Coop
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: MCSD
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: MCSD	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/05/2008	18. Contract Award Date: 02/05/2008
19a. Service Start Date: 07/01/2010	19b. Service End Date:
20. Contract Expiration Date: 06/30/2012	
21. Attachment #: 3	22. Block 4 Worksheet No.: 1225864
23a. Monthly Charges: \$.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$0.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$0.00	
23f. Annual non-recurring (one-time) charges: 37551.84	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$37,551.84	
23i. Total program year pre-discount amount (23e + 23h): \$37,551.84	
23j. % discount (from Block 4): 63	
23k. Funding Commitment Request (23i x 23j): \$23,657.66	

Block 6: Certifications and Signature

Do not write in this area.

Application ID:749368

Entity Number	130075	Applicant's Form Identifier	Marietta13
Contact Person	Cara Jones	Phone Number	727-289-5137

Block 6: Certifications and Signature

24. ☒ I certify that the entities listed in Block 4 of this application are eligible for support because they are: (check one or both)

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools including, but not limited to elementary, secondary schools, colleges, or universities

25. ☒ I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed in this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a.	Total funding year pre-discount amount on this Form 471 (Add the entities from Item 23I on all Block 5 Discount Funding Requests.)	\$70,552.67
b.	Total funding commitment request amount on this Form 471 (Add the entities from Items 23K on all Block 5 Discount Funding Requests.)	\$44,448.18
c.	Total applicant non-discount share (Subtract Item 25b from Item 25a.)	\$26,104.49
d.	Total budgeted amount allocated to resources not eligible for E-rate support	\$82,000.00
e.	Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	\$108,104.49
f.	<input type="checkbox"/> Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Items 25e.	

26. ☒ I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans are written at the following level(s):

- a. ☒ an individual technology plan for using the services requested in this application; and/or
- b. ☒ higher-level technology plan(s) for using the services requested in this application; or
- c. ☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

27. ☒ I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.



28. ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.
29. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s) or any representative or agent thereof or any consultant in connection with this request for services.
30. ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
31. ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
32. ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
33. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of this program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under the Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.
34. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of